

LEGISLATIVE BILL 1108

Approved by the Governor April 16, 2008

Introduced by Erdman, 47.

FOR AN ACT relating to mental health practitioners; to amend sections 38-2112, 38-2115, 38-2116, and 38-2124, Revised Statutes Supplement, 2007; to redefine a term; to change licensure and practice provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 38-2112, Revised Statutes Supplement, 2007, is amended to read:

38-2112 Consultation means a professional collaborative relationship between a licensed mental health practitioner and a consultant who is a psychologist licensed to engage in the practice of psychology as provided in section 38-3111, ~~or a qualified physician, or a licensed independent mental health practitioner~~ in which (1) the consultant makes a diagnosis based on information supplied by the licensed mental health practitioner and any additional assessment deemed necessary by the consultant and (2) the consultant and the licensed mental health practitioner jointly develop a treatment plan which indicates the responsibility of each professional for implementing elements of the plan, updating the plan, and assessing the client's progress.

Sec. 2. Section 38-2115, Revised Statutes Supplement, 2007, is amended to read:

38-2115 (1) Mental health practice means the provision of treatment, assessment, psychotherapy, counseling, or equivalent activities to individuals, couples, families, or groups for behavioral, cognitive, social, mental, or emotional disorders, including interpersonal or personal situations.

(2) Mental health practice does not include:

- (a) The practice of psychology or medicine;
- (b) Prescribing drugs or electroconvulsive therapy;
- (c) Treating physical disease, injury, or deformity;
- (d) Diagnosing major mental illness or disorder except in consultation with a qualified physician, ~~or a psychologist licensed to engage in the practice of psychology as provided in section 38-3111, or a licensed independent mental health practitioner~~;
- (e) Measuring personality or intelligence for the purpose of diagnosis or treatment planning;
- (f) Using psychotherapy with individuals suspected of having major mental or emotional disorders except in consultation with a qualified physician, ~~a or licensed psychologist, or a licensed independent mental health practitioner~~; or
- (g) Using psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed psychologist.

(3) Mental health practice includes the initial assessment of organic mental or emotional disorders for the purpose of referral or consultation.

(4) Nothing in sections 38-2114, 38-2118, and 38-2119 shall be deemed to constitute authorization to engage in activities beyond those described in this section. Persons certified under the Mental Health Practice Act but not licensed under section 38-2122 shall not engage in mental health practice.

Sec. 3. Section 38-2116, Revised Statutes Supplement, 2007, is amended to read:

38-2116 (1) Mental health practitioner means a person who holds himself or herself out as a person qualified to engage in mental health practice or a person who offers or renders mental health practice services. Independent mental health practitioner means a person who holds himself or herself out as a person qualified to engage in independent mental health practice or a person who offers or renders independent mental health practice services.

(2) A person who is licensed as a mental health practitioner ~~or an independent mental health practitioner~~ and certified as a master social worker may use the title licensed clinical social worker. A person who is licensed as a mental health practitioner ~~or an independent mental health practitioner~~ and certified as a professional counselor may use the title licensed professional counselor. A person who is licensed as a mental health practitioner ~~or an independent mental health practitioner~~ and certified as a marriage and family

therapist may use the title licensed marriage and family therapist. No person shall use the title licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

(3) A person who is licensed as an independent mental health practitioner and certified as a master social worker may use the title licensed independent clinical social worker. A person who is licensed as an independent mental health practitioner and certified as a professional counselor may use the title licensed independent professional counselor. A person who is licensed as an independent mental health practitioner and certified as a marriage and family therapist may use the title licensed independent marriage and family therapist. No person shall use the title licensed independent clinical social worker, licensed independent professional counselor, or licensed independent marriage and family therapist unless he or she is licensed and certified as provided in this subsection.

~~(3)~~ (4) A mental health practitioner shall not represent himself or herself as a physician or psychologist and shall not represent his or her services as being medical or psychological in nature. An independent mental health practitioner shall not represent himself or herself as a physician or psychologist.

Sec. 4. Section 38-2124, Revised Statutes Supplement, 2007, is amended to read:

38-2124 (1) No person shall hold himself or herself out as an independent mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed independent mental health practitioner if he or she:

(a) (i) (A) Graduated with a masters' or doctoral degree from an educational program which is accredited, at the time of graduation or within four years after graduation, by the Council for Accreditation of Counseling and Related Educational Programs, the Commission on Accreditation for Marriage and Family Therapy Education, or the Council on Social Work Education or (B) graduated with a masters' or doctoral degree from an educational program deemed by the board to be equivalent in didactic content and supervised clinical experience to an accredited program;

~~(ii) Is licensed as a provisional mental health practitioner or a licensed mental health practitioner; and~~

(ii) (A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has three thousand hours of experience obtained in a period of not less than two nor more than five years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category; or

(b) (i) Graduated from an educational program which does not meet the requirements of subdivision (a) (i) of this subsection;

~~(ii) Is licensed as a provisional mental health practitioner or a mental health practitioner; and~~

(ii) (A) Is licensed as a licensed mental health practitioner or (B) is licensed as a provisional mental health practitioner and has satisfactorily passed an examination approved by the board pursuant to subdivision (3) of section 38-2122; and

(iii) Has seven thousand hours of experience obtained in a period of not less than ten years and supervised by a licensed physician, a licensed psychologist, or a licensed independent mental health practitioner, one-half of which is comprised of experience with clients diagnosed under the major mental illness or disorder category.

(2) The experience required under this section shall be documented in a reasonable form and manner as prescribed by the board, which may consist of sworn statements from the applicant and his or her employers and supervisors. The board shall not in any case require the applicant to produce individual case records.

(3) The application for an independent mental health practitioner license shall include the applicant's social security number.

Sec. 5. This act becomes operative on December 1, 2008.

Sec. 6. Original sections 38-2112, 38-2115, 38-2116, and 38-2124, Revised Statutes Supplement, 2007, are repealed.